

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CRIMINAL ACTION NO. 5:13-CR-00026-KDB-DSC-1**

**UNITED STATES OF AMERICA,**

**v.**

**JASON MICHAEL BENFIELD,**

**Defendant.**

**ORDER**

**THIS MATTER** is before the Court on Defendant Jason Michael Benfield's *pro se* motion for compassionate release and reduction in sentence and home confinement under 18 U.S.C. § 3582(c)(1)(A), the First Step Act of 2018, the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. (Doc. No. 31). Having carefully reviewed the Defendant's motion, exhibits, and all other relevant portions of the record, the Court will deny the motion without prejudice to a renewed motion after exhaustion of his administrative remedies.

**I. BACKGROUND**

In 2013, Defendant pled guilty to one count of conspiracy to distribute, possess with intent to distribute methamphetamine and using and carrying a firearm during and in relation to a drug trafficking crime. (Doc. No. 11). He was sentenced to 121 months plus five years of supervised release. (Doc. No. 25).

Defendant is a 40-year-old male confined at FCI Butner Medium I, a medium-security federal corrections institution in North Carolina, with a projected release date of December 17, 2021. Defendant seeks a reduction in his sentence under the compassionate release statute, 18 U.S.C. § 3582(c)(1)(A). He claims he suffers from seizures, has tested positive for COVID-19 and severed

his pinkie finger in half. According to his Presentence Report, he described his physical health as good and stated he was not under the care of a physician nor prescribed any medication. (Doc. No. 21, ¶ 69). Defendant did attach medical records to his motion which indicate that he had a COVID test done due to exposure, but no result is listed. He takes medicine for seizures (last one occurred over 18 months ago), medicine for hypothyroidism and his finger was severed in half.

## **II. COMPASSIONATE RELEASE**

A prisoner may bring a motion for compassionate release before the court only if he “has fully exhausted all administrative rights to appeal a failure” of the BOP to bring a motion on his behalf or if 30 days have passed since the warden received his request, “whichever is earlier.” 18 U.S.C. § 3582(c)(1)(A). Courts are split over whether the exhaustion requirement is jurisdictional or is a “case processing” rule that can be waived. *Compare United States v. Brown*, No. CR 12-20066-37-KHV, 2020 WL 1935053, at \*1 (D. Kan. Apr. 22, 2020) (“The requirement to exhaust administrative remedies or wait 30 days after the warden receives a request is jurisdictional.”) *with United States v. Alam*, -- F.3d --, No. 20-1298, 2020 WL 2845694, at \*2 (6th Cir. June 2, 2020) (holding that the administrative exhaustion requirement in 18 U.S.C. § 3582(c)(1)(A) is non-jurisdictional). The majority view is that the exhaustion requirement is a case processing rule. *See, e.g., United States v. Smith*, No. 12 Cr. 133 (JFK), 2020 WL 1849748, at \*2-3 (S.D.N.Y. Apr. 13, 2020) (collecting cases).

If the rule is not jurisdictional, then it can be waived, forfeited, or abandoned, and is otherwise subject to exceptions. *See United States v. Zukerman*, 16 Cr. 194 (AT), 2020 WL 1659880, at \*3 (S.D.N.Y. Apr. 3, 2020); *United States v. Russo*, No. 16-cr-441 (LJL), 2020 WL 1862294, at \*5 (S.D.N.Y. Apr. 14, 2020). These exceptions include “where it would be futile, either because the agency decisionmakers are biased or because the agency has already determined the issue, . . .

where the administrative process would be incapable of granting adequate relief, . . . [or] where pursuing agency review would subject plaintiffs to undue prejudice.” *Zukerman*, 2020 WL 1659880, at \*3 (citing *Washington v. Barr*, 925 F.3d 109, 118-19 (2d Cir. 2019)). It is Defendant’s burden to show that he has exhausted his remedies or that exhaustion would be futile or result in undue prejudice. *See, e.g., United States v. Bolino*, No. 06-cr-0806(BMC), 2020 WL 32461, at \*1 (E.D.N.Y. Jan. 2, 2020) (requiring defendant to prove that the exhaustion requirement has been met).

Here, Defendant has not exhausted his remedies as required under 18 U.S.C. § 3852(c)(1)(A). While he claims to have petitioned the warden for compassionate release, he attaches a purported email with a subject line of “Request to Staff” regarding an Inmate Work Assignment on steam fitting. The content of the note, however, asks for a review for compassionate release. The Court is unable to verify whether or not it was sent to or received by the warden. Thus, Defendant has not exhausted his administrative remedies as required under the statute because 30 days have not lapsed since he submitted a request to the warden and he has not exhausted any appeal of a denial by the BOP to bring a motion on his behalf.

According to the BOP’s website, FCI Butner Medium I currently has 2 inmates and 3 staff with confirmed active cases of COVID-19. There are approximately 800 inmates at FCI Butler Medium I. There have been 9 inmate deaths while 201 inmates have recovered and 29 staff have recovered. Given this information, the Court finds that Defendant has not met his burden of showing that the exhaustion requirement in 18 U.S.C. § 3582(c)(1)(A) should be excused. With so few current cases amongst the inmate population at FCI Butner Medium I, requiring Defendant to exhaust his administrative remedies within the BOP before petitioning this Court would not result in any “catastrophic health consequences” or unduly prejudice Defendant. *See United States v.*

*Fraction*, No. 3:14-CR-305, 2020 WL 3432670, at \*7 (M.D. Pa. June 23, 2020) (finding the defendant did “not demonstrate any ‘catastrophic health consequences’ to make exhaustion futile or show that he could be unduly prejudiced if he had to wait to exhaust his administrative remedies with the BOP”). Generalized concerns regarding the possible spread of COVID-19 to the inmate population at FCI Butner Medium I are not enough for this Court to excuse the exhaustion requirement, especially considering the BOP’s statutory role, and its extensive and professional efforts to curtail the virus’s spread at FCI Butner Medium I. *See United States v. Raia*, 954 F.3d 594, 597 (3d Cir. 2020).

### **III. CARES ACT**

In response to the COVID-19 pandemic, the President signed the CARES Act into law on March 27, 2020. Pub. L. 116-136, 134 Stat 281, 516. Section 12003(b)(2) of the Act gives the Director of the BOP authority to lengthen the maximum amount of time a prisoner may be placed in home confinement under 18 U.S.C. § 3624(c)(2) during the covered emergency period, if the Attorney General finds that emergency conditions will materially affect the functioning of the BOP. On April 3, 2020, the Attorney General issued a memorandum to the Director of the BOP making that finding and directing the immediate processing of suitable candidates for home confinement. However, nothing in the CARES Act gives the Court a role in determining those candidates. *See United States v. Caudle*, 740 F. App’x 364, 365 (4th Cir. 2018) (district court lacks authority to govern designation of prisoners under § 3624(c)(2)).

### **IV. CONSTITUTIONAL ISSUES**

Defendant contends that the Eighth Amendment’s prohibition against cruel and unusual punishment supports his motion. But Eighth Amendment protections and standards are not applicable to the compassionate release analysis under Section 3582(c). *See United States v.*

*Butler*, No. 16-54-RGA, 2020 WL 3207591, at \*3 (D. Del. June 15, 2020) (stating that defendant’s contention that BOP officials have mishandled the COVID-19 crisis and are violating the inmates’ Eighth Amendment rights does not provide a basis for compassionate release); *United States v. Statom*, No. 08-20669, 2020 WL 261156, at \*3 (E.D. Mich. May 21, 2020); *United States v. Rodriguez-Collazo*, No. 14-CR-00387, 2020 WL 2126756, at \*3 (E.D. Pa. May 4, 2020) (“Defendant contends that the current conditions at Elkton FCI violate his Fifth and Eighth Amendment rights. However, these claims—which the Court construes as challenging the execution of his sentence at Elkton FCI—are not properly brought in a motion for compassionate release[.]”); *United States v. Numann*, No. 3:16-CR-00025-TMB, 2020 WL 1977117, at \*4 (D. Alaska Apr. 24, 2020) (explaining that “claims relating to the manner and conditions of confinement . . . are not properly brought in a motion for compassionate release”).

To the extent that Defendant wishes to raise a claim that prison officials’ deliberate indifference to his medical needs has resulted in an independent violation of his Eighth Amendment rights, he would need to do so in a lawsuit brought pursuant to *Bivens v. Six Unknown Named Federal Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), not in a compassionate release motion. A civil rights action under *Bivens* will not result in Defendant’s immediate release, but rather is a private action for damages against federal officials alleged to have violated a citizen’s constitutional rights. Therefore, to the extent Defendant is challenging the execution of his confinement and seeks immediate release from custody due to alleged Eighth Amendment violations, he should file a petition seeking habeas corpus relief under § 2241. That petition must be filed in the district of confinement. *See generally United States v. Little*, 392 F.3d 671, 679 (4th

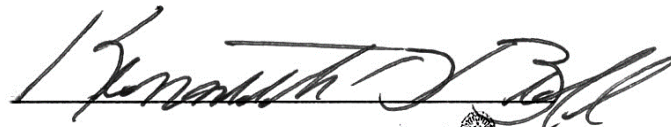
Cir. 2004) (holding that the district court in which the defendant filed his § 2241 was not the proper venue because it was not the district of confinement).<sup>1</sup>

## V. ORDER

**IT IS THEREFORE ORDERED** that Defendant's motion for compassionate release and reduction in sentence and home confinement (Doc. No. 31), is **DENIED** without prejudice to a renewed motion after exhaustion of his administrative remedies.

**SO ORDERED.**

Signed: August 7, 2020

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell  
United States District Judge



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<sup>1</sup> Defendant is confined at FCI Butner Medium I, which is located in the Eastern District of North Carolina.